

United States District Court

WESTERN DISTRICT OF MICHIGAN

UNITED STATES OF AMERICA

v.

TRACEY STEVEN GUTHRIE

ORDER OF DETENTION PENDING REVOCATION HEARING

Case Number: 1:04-CR-98 (RHB)

In accordance with the Bail Reform Act, 18 U.S.C. §3142(f), a detention hearing has been held. I conclude that the following facts require the detention of the defendant pending revocation hearing in this case.

Part I - Findings of Fact

- ☐ (1) The defendant is charged with an offense described in 18 U.S.C. §3142(f)(1) and has been convicted of a (federal offense) (state or local offense that would have been a federal offense if a circumstance giving rise to federal jurisdiction had existed) that is
- ☐ a crime of violence as defined in 18 U.S.C. §3156(a)(4).
- ☐ an offense for which the maximum sentence is life imprisonment or death.
- ☐ an offense for which the maximum term of imprisonment of ten years or more is prescribed in _____
- ☐ a felony that was committed after the defendant had been convicted of two or more prior federal offenses described in 18 U.S.C. §3142(f)(1)(A)-(C), or comparable state or local offenses.
- ☐ (2) The offense described in finding (1) was committed while the defendant was on release pending trial for a federal, state or local offense.
- ☐ (3) A period of not more than five years has elapsed since the (date of conviction) (release of the defendant from imprisonment) for the offense described in finding (1).
- ☐ (4) Findings Nos. (1), (2) and (3) establish a rebuttable presumption that no condition or combination of conditions will reasonably assure the safety of (an) other person(s) and the community. I further find that the defendant has not rebutted this presumption.

Alternate Findings (A)

- ☐ (1) There is probable cause to believe that the defendant has committed an offense
- ☐ for which a maximum term of imprisonment of ten years or more is prescribed in _____
- ☐ under 18 U.S.C. §924(c).
- ☐ (2) The defendant has not rebutted the presumption established by finding 1 that no condition or combination of conditions will reasonably assure the appearance of the defendant as required and the safety of the community.

Alternate Findings (B)

- ☐ (1) There is a serious risk that the defendant will not appear.
- ☒ (2) There is a serious risk that the defendant will endanger the safety of another person or the community.

It appears from an ABEL/Risk Assessment that defendant struggles with fantasies about little girls. He does not relate to adult women and thinks this is why he has had no other hands-on victims of sexual abuse. He states, "no one wants me around their children." The examiner found defendant to be a pedophile who continues to engage in daily behavior that reinforces these sexual feelings, and is "an extremely high risk to the community." The examiner stated that it was clear from defendant's (continued on attachment)

Part II - Written Statement of Reasons for Detention

Defendant has not shown by clear and convincing evidence that there are conditions or a combination of conditions that will assure the safety of the community, since he has already been placed at the halfway house level, the last level short of detention, and has been unable to conform his activity at that level. (The examiner "also believes it is likely Mr. Guthrie will continue to engage in numerous paraphilic behaviors, i.e., cross-dressing, masturbation with young children's undergarments, pornography, etc., and these behaviors increase his risk to the community".) (continued on attachment)

Part III - Directions Regarding Detention

The defendant is committed to the custody of the Attorney General or his designated representative for confinement in a corrections facility. The defendant shall be afforded a reasonable opportunity for private consultation with defense counsel. On order of a court of the United States or on request of an attorney for the Government, the person in charge of the corrections facility shall deliver the defendant to the United States marshal for the purpose of an appearance in connection with a court proceeding.

Dated: September 14, 2007

/s/ Hugh W. Brenneman, Jr.

Signature of Judicial Officer

Hugh W. Brenneman, Jr., United States Magistrate Judge

Name and Title of Judicial Officer

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Alternate Findings (B) - (continued)

“admitted behavior that he would sexually act out with a young child given access and opportunity.”

Part II - Written Statement of Reasons for Detention - (continued)

While defendant can be told to remain at the halfway house, it is not a lockdown facility and he can leave it and enter the community any time he wants to.